

## **LBNL – PROCUREMENT STANDARD PRACTICES**

**Section: 29 Taxes**

**Subject: 29.4 New Mexico Gross Receipts Tax**

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**PURPOSE:** This standard practice (SP) establishes the procedures for complying with tax laws applicable to services performed within the state of New Mexico.

**POLICY:** The Laboratory will comply with the requirements of the New Mexico Gross Receipts and Compensating Tax Act (the Act).

**SCOPE:** This SP applies to services under a cost-reimbursement subcontract to be performed in whole or in part in the state of New Mexico.

### **DEFINITION:**

**Services** Services means all activities engaged in for other persons for a consideration and involves predominately the performance of a service as distinguished from selling or leasing property. The term also includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. In determining what a service is, the intended use, principal objective, or ultimate objective of the contracting parties must not be controlling.

### **PROCEDURES:**

**Background** In 1982, as a direct result of a United States Supreme Court decision, the State of New Mexico and nine federal agencies, including DOE, signed an agreement outlining the application of and the exemptions to the Act for government contractors and subcontractors.

The Act imposes a tax on all services performed in whole or in part within the state of New Mexico, regardless of whether the subcontractor providing the service is based in the State. As an educational institution, the University of California is exempt from taxation for purchases of tangible personal property, except tangible personal property that will become an ingredient or component part of a construction project.

**Solicitations and Subcontracts** The *State of New Mexico Gross Receipts and Compensating Tax* clause (FAR 52.229-10) must be included in all cost-reimbursement solicitations and subcontracts involving services to be performed in whole or in part in New Mexico.

**Reimbursement** To be reimbursed for the gross receipts tax, subcontractors must show the amount of the tax on services as a separate item in their proposals and invoices. The amount of obligated funds must include the amount of the applicable tax. The tax rate differs by county and may be verified by contacting the New Mexico Taxation and Revenue Department.

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### **Inquiries**

Subcontractors should direct their inquiries regarding the applicability of the Act to the New Mexico Taxation and Revenue Department, Revenue Division, Santa Fe, New Mexico 87503.

### **CLAUSE:**

Include the *State of New Mexico Gross Receipts and Compensating Tax* clause (FAR 52.229-10) in all cost reimbursement solicitations and subcontracts involving services to be performed in whole or in part in New Mexico.

### **RESPONSIBILITIES:**

#### **Procurement Specialist**

The procurement specialist must:

- Include the *State of New Mexico Gross Receipts and Compensating Tax* clause in solicitations and subcontracts and
- Reimburse subcontractors for gross receipts tax applicable to services.

### **REFERENCE:**

Prime Contract Clause I.114 – Contractor Purchasing System, Paragraph (x) (5)